

REMARKS

This responds to the Office Action mailed on December 18, 2006.

Claims 1-46 are now pending in this application.

§103 Rejection of the Claims

Claims 1-6 and 25-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Internet Archive Wayback Machine, October 1999 (hereinafter eBay) in view of “Going...Going...Gone! Bargain-hunters and collectors can scour auctions from home via the internet”, April 27, 1999; (hereinafter Wilson).

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitations:

determining a site that a user accesses....

retrieving a category list available for the site...and

communicating the category list and a view selection icon to the user....the site is a regional site, the category list is a region-specific category list, the region specific category list to enable a view of a first plurality of offerings based on the categories of offerings, the first plurality of offerings to include a second plurality of offerings, and the view selection icon to enable an alternative view of the second plurality of offerings based on a predefined selection criteria.

The Office Action, in rejecting claim 1, contends that the above limitation is taught/suggested by the following disclosure in Wilson:

If you choose a category like antiques, you'll get a list of items for sale. A small camera icon tells you there is a picture available on Amazon and a "pic" tells you on eBay. If you click on a specific sale item, it will provide a description of the item, any specific terms or policies of the seller, the current bid, number of total bids, starting bid, number of days or hours left on the sale, and a space to enter your bid.

The above quote from Wilson describes a list of items for sale. The list is given to a user in response to the user choosing a category. For example, the user may choose the category antiques and get a list of sale items, presumably antique sale items. The above quote further describes a small camera icon and a "pic." The small camera icon is described as available on Amazon and the "pic" is described as available on eBay. The above quote does not describe the small camera icon or the "pic" as selectable. The above quote merely states "a small camera icon tells you there is a picture available on Amazon and a "pic" tells you on eBay."

Claim 1 requires communicating a region-specific category list and a view selection icon to a user, the region specific category list to enable a view of a first plurality of offerings that includes a second plurality of offerings, the view selection icon to enable an alternative view of the second plurality of offerings based on a predefined selection criteria. Merely for example:

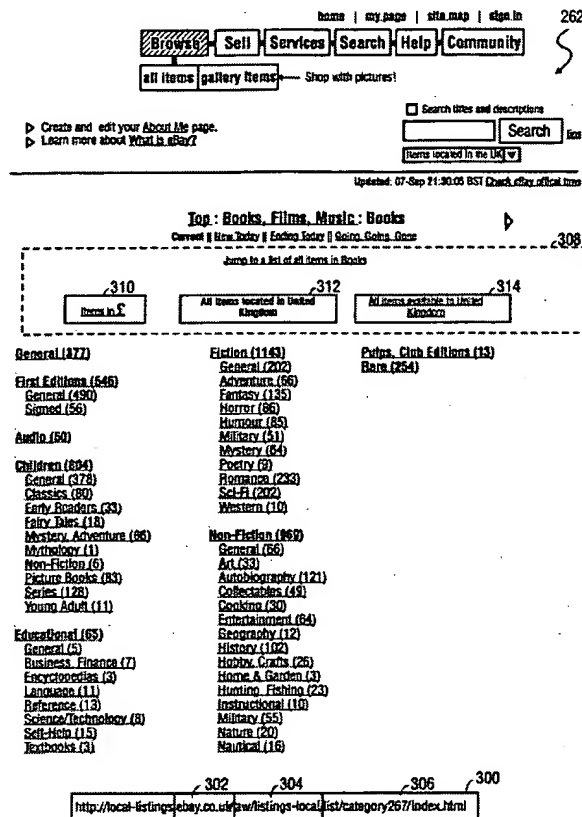


FIG. 12A

The **Figure 12A** shows a page that includes a region-specific category list that enables a view of book offerings (e.g., first plurality) according to the respective region-specific categories available on a United Kingdom site. The **Figure 12A** further shows three view selection icons (e.g., callouts 310, 312, 314) that respectively enable alternative views (e.g., respective second pluralities included in the first plurality) of the book offerings based on predefined selection criteria.

In contrast to the limitations of claim 1, Wilson fails to disclose a view selection icon that enables an alternative view of a second plurality of offerings that is included in a first plurality of offerings for a number of reasons. First, the small camera icon or “pic” described in the above quote from Wilson cannot be said to enable an alternate view because Wilson describes the small camera icon and the “pic” as telling the user a picture is available. In other words, if the small camera icon and the “pic” are considered equivalent to the “view selection icon” then the small

camera icon and the “pic” merely provide information to a user and do not enable an alternative view, as required by claim 1.

Second, the small camera icon or “pic” described in the above quote cannot be said to enable an alternative view of a plurality of offerings, much less a second plurality of offerings, because, as Wilson further states, “Pictures and descriptions are provided by sellers in their ads” (Wilson, Page 2, paragraph nine). Accordingly, the small camera icon or “pic” respectively tell whether a picture is available in an ad for an individual item and cannot be said to enable an alternative view of a second plurality of offerings.

Finally, claim 1 requires an enablement of an alternative view of second plurality of offerings that are included in a first plurality of offerings. In contrast, the above quote from Wilson fails to describe a first plurality of offerings that includes a second plurality of offerings and merely describes a list of items for sale. Wilson therefore cannot be said to teach or suggest the above quoted limitations because claim 1 requires a view selection icon that enables an alternative view of a second plurality of offerings that is included in a first plurality of offerings and Wilson describes a small camera icon and a “pic” that respectively tell a user whether a picture is available in an ad for an individual item.

Independent claim 25 includes a limitation corresponding substantially to the above-discussed limitation of claim 1. The above remarks are accordingly also applicable to a consideration of this independent claim. Accordingly, Applicants request that the above remarks also be considered when examining independent claim 25 for allow ability.

As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 2-6 and 26-30 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 7-12, 14-24 and 31-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of “Subasta.com, the premier online auction board for Latin America, ...than two Months!”, July 16, 1999; (hereinafter Subasta).

Claim 7 includes the following limitations:

displaying a listing currency in conjunction with a native currency to the user.

The Office Action highlights the following disclosure in Subasta:

After determining that competition was virtually null in the Latin American market, Subasta.com set out to produce such a product (a Spanish language auction board with technical features which surpass even the best U.S.-based auction boards). Subasta.com is equipped with a fluent currency conversion program. This allows Subasta.com users the convenience of participating in auction boards in their native currency.

The above quote from Subasta describes a Spanish language auction board that is equipped with a fluent currency conversion program. The fluent currency conversion program allows a user to participate in auction boards in the user's native currency.

Claim 7 requires displaying a listing currency in conjunction with a native currency to a user. In contrast, the above quote from Subasta does not describe displaying a listing currency in conjunction with a native currency to a user; rather, a fluent currency conversion program that allows a user to participate in an auction board in their native currency. Using a fluency conversion program to participate in an auction board in a native currency is not the same as displaying a listing currency in conjunction with a native currency. Indeed, one may only speculate as to the meaning of the word "participate." For instance, "participate" may suggest a user action or something in which the user becomes involved. As such, the word "participate" does not suggest displaying to the user, much less displaying a listing currency in conjunction with a native currency to the user, but an action taken by the user. Moreover, nowhere in the above quote from Subasta is a listing currency mentioned. The phrase "fluent currency" is mentioned but only to qualify a type of conversion program, namely a "fluent currency conversion program." Nevertheless, a fluent currency conversion program is not a currency, much less a listing currency. Subasta therefore cannot be said to teach or suggest the above quoted limitations because claim 7 requires displaying a listing currency in conjunction with a native currency to a user and Subasta describes a fluent currency conversion program that allows a user to participate in auction boards in the user's native currency.

Independent claims 14, 18, 31 and 37 each include a limitation corresponding substantially to the above-discussed limitation of claim 7. The above remarks are accordingly also applicable to a consideration of these independent claims. Accordingly, Applicants request that the above remarks also be considered when examining independent claims 14, 18, 31, and 37 for allow ability.

Claims 8-12 depend on independent claim 7. Claims 15-17 depend on independent claim 14. Claims 19-24 depend on independent claim 18. Claims 32-36 depend on independent claim 31 and claims 38-40 depend on independent claim 37. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 8-12, 15-17, 19-24, and 32-40 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of Subasta.com as applied to claim 8, and further in view of “SOLD! on eBay As Antique and Collectible Dealers See Their Sales Increase Through Online Auctions Such as eBay...Afraid Of”, October 11, 1999; (hereinafter Pollick). Claims 13 depend on independent claim 14. Accordingly, the rejection of claim 14 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 41-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of Wilson as applied to claim 1, and further in view of Subasta.com. Claims 41-45 depend on independent claim 1. Accordingly, the rejection of claims 41-45 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

In summary, eBay in combination with Wilson in combination with Subasta in combination with Pollick does not teach or suggest each and every limitation of the claims 1, 7, 14, 18, 25, 31, and 37 as required to support rejections of these independent claims 1, 7, 14, 18, 25, 31, and 37 of the present application under 35 U.S.C. § 103.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Respectfully submitted,

BARRY BOONE ET AL.

By their Representatives,


SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

408-278-4046

Date 03/19/2007

By 

Mark R. Vatuone

Reg. No. 53,719

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th, day of March 2007.

Dawn R. Shaw

/Dawn R. Shaw/

Name

Signature